

Applicants submit herewith a Declaration of Prior Invention in the United States to overcome the Landan patent under 37 C.F.R. Section 1.131. The Declaration establishes completion of the invention in the subject application in the United States, at a date prior to September 1, 1999, that is the effective data of the Landan patent cited by the Examiner.

A Transaction Perspective Requirements Specification is attached to the Declaration as Exhibit A. (Portions of the Transaction Perspective Requirements Specification which are not applicable to the Declaration and may be considered trade secrets have been redacted). Section 1 of the Specification provides an overview of the Transaction Perspective system and Section 9 describes features and functions of the system. More specifically, the specification describes the recording and execution of transactions and collection and output of data as set forth in the claims. The specification further describes system architecture, input to transactions, output to the database, and provides data collection examples.

Also attached to the Declaration is a copy of e-mail (attached as Exhibit B). The e-mail was sent from Fritz Mueller, Director of Product Marketing at Keynote Systems, Inc. to Keynote customers to notify them of the availability of the Transaction service (described in Exhibit A). As set forth in the e-mail, the Transaction service measures the performance and availability of multi-page interactive transactions on web sites as experienced by users around the world. The e-mail also describes the browser-based recorder and the distribution of recorded transactions to measurement computers which execute the transaction at desired intervals to collect detailed measurement data. As noted in the e-mail, the service was immediately available at the time of distribution of the e-mail.

The dates of the exhibits have been removed. As noted in the Declaration, both documents were created prior to September 1, 1999.

From these documents, it can be seen that the invention in this application was made and reduced to practice prior to September 1, 1999, which is the effective date of the Landan reference.

For the foregoing reasons, Applicants believe that all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone

conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 446-8695.

Respectfully submitted,



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